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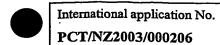
PATENT COOPERATION TREAFFED 0 8 FEB 2005

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70) 10/527 680

Applicant's or agent's file reference 484997 NJC	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No.	International Filing Date (day/month/year)		
PCT/NZ2003/000206	15 September 2003	2 October 2002	
International Patent Classification (IPC) or	national classification an	nd IPC	
Int. Cl. 7 A61M 16/06, A62B 9/04, 18	3/08		
Applicant FISHER & PAYKEL HEALTHCARE LIMITED et al			
1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.			
2. This REPORT consists of a total of 6	sheets, including this co	over sheet.	
This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).			
These annexes consist of a total of	of sheet(s).		
3. This report contains indications relating	to the following items:		
I X Basis of the report	I X Basis of the report		
II Priority	II Priority		
III X Non-establishment of opi	III X Non-establishment of opinion with regard to novelty, inventive step and industrial applicability		
IV X Lack of unity of invention	n		
V X Reasoned statement unde citations and explanation	V X Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
VI Certain documents cited			
VII X Certain defects in the inte	ernational application		
VIII Certain observations on t	he international applicati	ion	
Date of submission of the demand	1		
Date of submission of the demand 28 April 2004 Date of completion of the report 21 January 2005			
2.2 5 11.1 2000		Authorized Officer	
AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. (02) 6285 3929 Sue Thomas Telephone No. (02) 6283 2454			

INTERNATIONAL PRESIMINARY EXAMINATION REPORT



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5. This report has been established as if (some of) the amendments had not been made, since they have been considered to		the drawings, sheets/fig.	
go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**	5.	This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**	
* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).	*		
** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report	**	·	

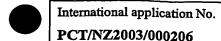
INTERNATIONAL PROMINARY EXAMINATION REPORT



International application No.
PCT/NZ2003/000206

ш		Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	
1.	The questions whether the claimed invention appears to be novel, to involve an inventive step (to be nonobvious), or to be industrially applicable have not been examined in respect of:		
		the entire international application,	
	X	claims Nos: 9-14, 20	
	beca	ause:	
		the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):	
		•	
		·	
		the description, claims or drawings (indicate particular elements below) or said claims Nos. are so unclear that no meaningful opinion could be formed (specify):	
		•	
		the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.	
	X	no international search report has been established for said claim Nos. 9-14, 20	
2.	A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:		
		the written form has not been furnished or does not comply with the standard.	
		the computer readable form has not been furnished or does not comply with the standard.	

INTERNATIONAL PRESIMINARY EXAMINATION REPORT



TX.		
IV.	Lack of unity of invention	·
1.	In response to the invitation to restrict or pay additional fees the applicant has:	
	restricted the claims.	
	paid additional fees.	
	paid additional fees under protest.	
	neither restricted nor paid additional fees.	
2.	This Authority found that the requirement of unity of invention is not complied with and chose, according not to invite the applicant to restrict or pay additional fees.	ng to Rule 68.1,
3.	This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13	.3 is
	complied with.	
	X not complied with for the following reasons:	
	Claims 1-8, 15 have a first special technical feature of a cord pulling a releasable connecting mask	eans to release
	Claims 16-19, 21-23 have a second special technical feature of actuating a release mechanism l securement and an engaging means to separate these two means.	between a
	As all searchable claims could be searched without effort justifying an additional fee, this Auth invite payment of any additional fee.	ority did not
		,
	•	
4. (Consequently, the following parts of the international application were the subject of international preliminary of establishing this report:	examination in
	all parts.	
	X the parts relating to claims Nos. 1-8, 15-19, 21-23	

INTERNATIONAL PRELIMINARY EXAMINATION REPORT



International application No. PCT/NZ2003/000206

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1.	Statement		<u> </u>
	Novelty (N)	Claims 6-8, 17-19, 21-23	YES
	,	Claims 1-5, 15, 16	Ν̈́O
	Inventive step (IS)	Claims 6-8, 17-19, 21-23	YES
	•	Claims 1-5, 15, 16	NO
	Industrial applicability (IA)	Claims 1-8, 15-19, 21-26	YES
		Claims	NO

2. Citations and explanations (Rule 70.7)

NOVELTY (N) Claims 1-5, 15, 16

Claims 1-5, 15, 16: All the defined features of claim 1 are provided in US 5441046 as follows:

At least one strap Figure 2

One strap end in use flexibly coupled to releasably connecting means on one side of mask

Other end flexibly coupled to attachment means at other side of mask

Figure 2

Strap extends around back of user's head

Item 80

Figure 2

Cord attached to releasably connecting means

Figures 10A and 10B

When cord pulled by user, releasably connecting means causes strap to be released from mask. All the defined features of the remaining claims are similarly provided by US 5441046.

Column 5

INVENTIVE STEP (IS) Claims 1-5, 15, 16

Claims 1-5, 15, 16: Since these claims lack novelty, they also lack inventive step

INTERNATIONAL PRELIMINARY EXAMINATION REPORT



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VII.	Certain defects in the international application
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The following defects in the form or contents of the international application have been noted:

Claims 9-14 are not in the form of complete claims.

Claim 20 is appended to claim 11, consequently the scope of protection sought cannot be determined.